



City of Anaheim  
**OFFICE OF THE CITY ATTORNEY**

June 11, 2008

BY FACSIMILE TRANSMISSION  
FAX NUMBER: (916) 322-6440

Fair Political Practices Commission  
428 J Street, Suite 800  
Sacramento, CA 95814

Re: June 12 Agenda Item 12 - Prenotice Discussion of the Repeal and  
Readoption of Regulation 18944.1

Dear Chairman Johnson and Members of the Commission:

On behalf of the City of Anaheim, this office strongly opposes the proposed repeal and readoption of Regulation 18944.1, and specifically the proposed repeal of subdivision (c) thereof, for the reasons hereinafter set forth.

The City of Anaheim is the owner of the Angel Stadium of Anaheim, the Honda Center, The Grove of Anaheim and the Anaheim Convention Center. The City currently has a lease, management agreement or exhibition agreement for each of these public facilities. The terms of each of these agreements provides that the City shall receive a defined number of tickets at specified locations in the facilities, for all events to be exhibited or performed at each of these venues. These tickets are distributed to various public officials and others pursuant to the terms of an officially adopted City policy. The agreements prohibit the City from selling the tickets. In addition, from time to time, the City also receives invitations or admission tickets to various venues in the City for distribution in accordance with the provisions of Regulation 18944.1 in general.

(A) Tickets Provided to An Agency Pursuant to Contractual Requirement

(1) A logical distinction exists, and should be preserved, between tickets which are gratuitously provided directly to a public official and tickets which are required to be provided to a public agency pursuant to a contractual obligation between the City and the tenant or exhibitor at a public facility. In the former instance, there is the possibility, or at least the perception, that the donor of the tickets may be providing a gift for the purpose of seeking favor from the particular official to whom the tickets are provided. Therefore, a logical reason exists to treat

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such tickets as "gifts" for purposes of the disclosure and disqualification provisions of the Political Reform Act. An argument can be made that such gratuitous tickets give recipient public officials an incentive to provide favorable treatment to the donor in order to increase the likelihood that the donor will continue to provide such tickets to the official. On the other hand, where tickets are provided to an agency pursuant to a contractual obligation imposed upon the party occupying or using a public facility, there is no such incentive to provide favorable treatment to the party which provides the tickets to the agency because such party is obligated to provide such tickets to the agency. Regulation 18944.1 (c) currently recognizes this distinction and should be retained.

(2) Tickets provided to a public agency under a contractual obligation for use of public facilities are not gifts but are rather a form of consideration provided to the public agency for the use of such facilities, similar to the rental payment required by the agency for use of the facilities. Just as the revenue received by the agency as the rental charge for its facilities can be used by the agency to pay compensation and benefits to its officials and employees, likewise an agency should be able to distribute tickets which are required to be provided to the agency as part of a contractual obligation to its own officials and employees. Such tickets are similar to the compensation and benefits provided to public officials. Just as compensation and benefits provided by a public agency to its own officials and employees are not regarded as income for purposes of the PRA, tickets provided by a public agency to its officials should not be regarded as income or gifts to the official from the public agency for disclosure and reporting purposes. The purpose of the PRA and the Regulations is to assure the undivided loyalty of the officials and employees of an agency to the interests of the agency and the public. Restricting the amount of "gifts" an official or employee may accept from its own public agency employer serves no such public purpose.

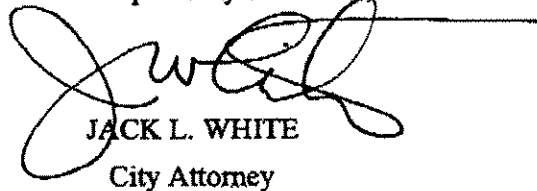
#### **B. Tickets Donated to a Public Agency**

The current provisions of Regulation 18944.1 which create an exception to the gift restrictions for tickets donated to a public agency (not involving a contractual obligation) should also be retained because such provisions adequately protect the public and further the purpose of the Political Reform Act because this exception only applies in instances where the donor of the tickets does not designate the recipient or control the use of the tickets. Since the recipient of the gift is determined by the public agency, there is no reason to regard the donor of the tickets as the

source of the gift to the official. Subdivision (b) of the proposed readoption of Regulation 19844.1 would provide that tickets donated to an agency and not earmarked or designated for use by a particular individual would nevertheless be regarded as gifts from the donor to the official who ultimately uses the tickets. This proposed language appears inconsistent with the definition of "source of gifts" as currently set forth in Regulation 18945 (a)(1) since the donor is not directing or controlling the use of the ticket.)

Thank you for the opportunity to provide comments concerning the prenotice discussion of the proposed repeal and readoption of Regulation 18944.1. We look forward to providing additional comments to the Commission concerning this matter as may be necessary or appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. White", with a long horizontal line extending to the right.

JACK L. WHITE  
City Attorney